

REMARKS

Claims 1-14, 16, and 17 are pending in the application. Applicant thanks the Examiner for pointing out the allowable subject matter in claims 5-7. Claims 1 and 10 are amended. No new matter is presented.

A terminal disclaimer is submitted herewith in response to the obviousness-type double patenting rejection on claims 1-19 of Serial No. 10/528,804. Withdrawal of the double patenting rejections is respectfully requested.

The Examiner objects to the abstract for failure to provide the abstract on a separate sheet. (See Office Action, page 3.) A separate sheet on which only the abstract is contained is now provided. Therefore, applicant requests that the rejection be withdrawn.

The claims stand rejected under 35 USC 112, second paragraph, as being indefinite. (See Office Action, page 4.) Amended claim 1 clarifies that the “it” referred to in lines 8 and 9 is the claimed restricting device. Claim 10 is amended to positively recite a foam. Therefore, applicant respectfully requests that the rejection be withdrawn.

The Examiner asserts that claims 1-4, 8, 13-14, and 16-17 are anticipated by Worwag, U.S. Patent No. 5,416,948. Applicant disagrees.

The Examiner equates the flaps 80, 81 of Worwag with the claimed restricting device as recited in claim 1. This is not correct because the flaps 80, 81 are actuated by a user of the device. Actuation only occurs in Worwag when a user operates the disclosed switch 12a. “[Actuation occurs] by actuating the rocker-type switch 12a, for example with a foot.” (See Worwag, col. 7, lines 16-18.). This is not the restricting device of claim 1. Rather, in claim 1, the flow of debris actuates the operation of the restricting device, in that claim 1 recites “the restricting device being movable by the flow of debris from the chamber.” Actuation by the flow of debris from the chamber is not the same as actuation by a foot of a user. Therefore, the rejection should be withdrawn.

Claims 1-4, 8, 13-14, and 16-17 stand rejected as anticipated by Worwag, U.S. Patent No. 5,293,665. Applicant disagrees for the following reasons.

Worwag fails to teach all of the elements of the invention as recited in claim 1. Worwag neither discloses nor suggests the claimed restricting device being movable by the flow of debris from the chamber of the claimed cleaner head. Applicant refers the Examiner to Figs. 3 and 4 of Worwag. Fig. 3 of Worwag generally discloses the brush chamber 3 being blocked off from the turbine chamber 17. In this operating mode, the cleaning head loosens dirt from a carpet or a floor. A slide mechanism 34 in a lowered position is responsible for “blocking the intake air stream through the first intake opening 19” so that no debris is collected. (See Worwag, Fig. 3 and col. 6, lines 14-15.) Fig. 4 generally discloses an opening between the two chambers 3, 17 through which an air stream 30 passes. Now the slide mechanism 34 is raised, thus the air stream passes through the air feed channel 30 and into the turbine chamber 17. Debris is sucked into the apparatus.

The flow of debris in Worwag does not cause the opening and closing of the slide member 34. Instead, a user causes the slide member 34 to open and close depending on which operation mode the user is performing. “The air feed channel 30 *can be* adjusted with the aid of the slide mechanism 34.” (See Worwag, col. 6, lines 7-9.) The air feed channel 30 can be adjusted when a user makes the adjustment. The user performs this adjusting operation in Worwag when the user determines that it is time to move from loosening dirt or “working cleaning foam into a carpet” to collecting the dirt loosened in a different mode of operation. (See col. 6, line 16.) The user selects an operation mode from a first position (refer to Fig. 3), in which no dirty air (i.e., debris) is drawn into the cleaner head so that debris may be loosened. Then the user selects an operation mode from a second position in which debris is collected. (See Fig. 4.) Since Worwag does not disclose or suggest the claimed restricting device being movable by the flow of debris from the chamber as recited in claim 1, the rejection under 35 USC 102(b) should be withdrawn. Neither of the Worwag references cited by the Examiner

discloses or suggests all of the features of the claimed invention. Therefore, claim 1 is allowable.

Claims 9-12 stand rejected under 35 USC 103(a) as unpatentable over Worwag, U.S. Patent No. 5,416,948 and/or Worwag, U.S. Patent No. 5,293,665. This rejection is respectfully traversed. Since the Worwag references do not provide the disclosures for which they are cited, the rejection should be withdrawn.

Early action allowing claims 1-14, 16, and 17 is solicited.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. **424662010400**.

Respectfully submitted,

By:

Adam C. Lilling
Registration No. 60,272

Morrison & Foerster LLP
1650 Tysons Boulevard, Suite 400
McLean, Virginia 22102
Telephone: (703) 760-7334
Facsimile: (703) 760-7777

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Attachments